

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aurora Maoz	Team: Team # 1	CCRB Case #: 200611982	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 09/08/2006 11:03 PM	Location of Incident: Christopher Street and Greenwich Street	Precinct: 06	18 Mo. SOL 3/8/2008	EO SOL 3/8/2008	
Date/Time CV Reported Sun, 09/10/2006 6:55 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 09/10/2006 6:55 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Hom	09652	940269	006 PCT
2. POF Christin Aigotti	03784	933597	006 PCT
3. POM Robert Durante	27462	920240	006 PCT
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Ricardo Pacheco	04967	904729	006 PCT
2. LT Michael Casey	00000	896271	006 PCT
3. POM Daniel Clark	06118	940010	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Christin Aigotti	Abuse: PO Christine Aigotti stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Robert Durante	Abuse: PO Robert Durante stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C. Officers	Force: Officers pointed their guns at § 87(2)(b) and § 87(2)(b)	
D.POM Jonathan Hom	Abuse: PO Jonathan Hom frisked § 87(2)(b)	
E.POF Christin Aigotti	Abuse: PO Christine Aigotti frisked § 87(2)(b)	

### Synopsis

On September 10, 2006, § 87(2)(b) and § 87(2)(b) independently called the CCRB to file a complaint against members of the 6<sup>th</sup> Precinct, including PO Jonathon Hom, PO Christine Aigotti, and PO Robert Durante. § 87(2)(b) called IAB on October 5, 2006 to report the same incident, and the complaint was referred to the CCRB. On the night of September 8, 2006, § 87(2)(b) was robbed at gunpoint. Numerous calls were made to 911 by eyewitnesses of the crime. § 87(2)(b) and her mother, § 87(2)(b) were then taken to canvass in the area to look for the perpetrators, who were two or three Black males driving a metallic gray four door sedan. Near the scene of the robbery, § 87(2)(b) positively identified § 87(2)(b)'s car in relation to the robbery. § 87(2)(b) was driving her friend § 87(2)(b) in the front passenger seat, home from a bar called Henrietta Hudson's in § 87(2)(b)'s car. At around 11:00 PM, § 87(2)(b) and § 87(2)(b) were pulled over on Christopher Street between Hudson Street and Greenwich Street in Manhattan by PO Durante and PO Aigotti (**Allegations A and B**). A number of officers, who were not identified by the investigation, approached § 87(2)(b)'s vehicle with their guns pointed (**Allegation C**). Moments later, PO Aigotti instructed the officers to lower their firearms. PO Hom stated that he then frisked § 87(2)(b) (**Allegation D**), although this could not be corroborated by anyone else at the scene. PO Aigotti then frisked § 87(2)(b)'s back pocket (**Allegation E**). The individuals were then informed that § 87(2)(b)'s vehicle was positively identified as related to suspects in an armed robbery, and that the officers were looking for two Black male perpetrators.

§ 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
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§ 87(2)(b)

This case was initially assigned to Investigator Brian Hardingham, and was reassigned to the undersigned on December 28, 2006, due to Investigator Hardingham's departure from the CCRB.

### Summary of Complaint

On October 6, 2006, Investigator Hardingham interviewed § 87(2)(b) in connection with this case. § 87(2)(b) was a Black female, § 87(2)(b) old, approximately 5'8" and 243 lbs. § 87(2)(b) § 87(2)(b)'s summary is drawn from her sworn statement at the CCRB, § 87(2)(g) (Encl. 10A-F).

On the night of September 8, 2006, § 87(2)(b) and § 87(2)(b) left Henrietta Hudson's bar and started driving away in § 87(2)(b)'s silver 2001 Ford Taurus sedan when they realized that § 87(2)(b) had left her phone at the bar. The car was registered in New York State in § 87(2)(b)'s name. § 87(2)(b) and § 87(2)(b) returned to the bar and § 87(2)(b) hopped out of the passenger seat and ran inside. § 87(2)(b) saw that there was an RMP with its turret lights blinking parked a block behind her as she waited for § 87(2)(b) but she did not worry about it because it didn't pull up right behind her and was not moving. § 87(2)(b) left the bar about 30 seconds after she went in, hugged the bouncer on the way out and then got in the car with § 87(2)(b). § 87(2)(b) drove the car up Hudson Street. She wanted to make the first possible left turn but she couldn't do it because of traffic so she kept driving straight for an extra block and then made a left turn on Christopher Street. § 87(2)(b) intended to drop § 87(2)(b) off at her apartment in lower Manhattan, then take the tunnel from West Street to the FDR to head up to her own apartment in the Bronx. When she made the turn, the police car behind them followed them. § 87(2)(b) told § 87(2)(b) that she thought the car was coming for them so § 87(2)(b) said okay.

As § 87(2)(b) turned onto Christopher Street, at 11:00 PM, the RMP behind her pulled close to her and its lights switched from a slow blinking pattern to the full flashing one. § 87(2)(b) stopped the car at this point. Officers quickly surrounded § 87(2)(b)'s car and said, "Get out of the car!" § 87(2)(b) got out of the car. A uniformed male officer who § 87(2)(b) later identified as PO Jonathon Hom knelt down behind her car with his firearm drawn and pointed at her from about five feet away. § 87(2)(b) looked at § 87(2)(b) saw that there were four or five officers around her and noticed that a uniformed male officer had his gun pressed against the right side of her head. § 87(2)(b) couldn't see this officer's face. Another officer was pointing his gun up at her face from below. § 87(2)(b) did not know what this officer looked like either. § 87(2)(b)'s hands were on the roof of the car and she was leaning forward. All of the officers around her were male. Some were in uniform and others were in plainclothes. § 87(2)(b) knew that § 87(2)(b)'s foot got slammed in the door as the officers initially ran up to her, but she was not sure how it happened.

About 40 seconds after § 87(2)(b) and § 87(2)(b) got out of the car, a female officer said, "Drop the guns, drop the guns." All of the officers listened to her and lowered their guns at this point. The female officer was in uniform, white, between 5' and 5'4" tall, in her 30s, had an average build and had medium length brown hair in a ponytail. The investigation identified this female officer as PO Aigotti. She had been pointing her firearm in § 87(2)(b)'s direction and standing about three feet to PO Hom's right before she told the officers to lower their weapons.

PO Hom approached § 87(2)(b) and grabbed her left wrist at this point. § 87(2)(b) pulled away from him and told him that she had recently had orthoscopic surgery on her left shoulder and would not get into any altercation with him. She told him that she couldn't have any problems and that her hands were empty, then asked what was going on. As this was happening, § 87(2)(b) saw that three or four officers were scuffling with § 87(2)(b) on the right side of the car.

A white male officer wearing casual street clothes approached § 87(2)(b) and asked her for her license and registration. He was about 5'7" or 5'8", in his 40s, and had close-cut graying hair. § 87(2)(b) gave her documents to him and he walked away. PO Durante later identified himself as the officer who asked for § 87(2)(b)'s identification, however, he was in uniform that night. PO Hom, a stocky officer in a hat and a tall blond officer without a hat all stayed close to § 87(2)(b). The blond officer told her to put her hands on the roof of her car. He was about 6'0", had an average build, in his 20s and in uniform. § 87(2)(b) told him that she wouldn't do that because she had just had surgery and couldn't extend her arm. The blond officer kept on insisting so § 87(2)(b) told him to go get his superior and said, "I just gave my ID to a detective. What else can I do now?" The stocky officer was white, in uniform and looked to be in his late 20s. § 87(2)(b) and the officers on her side continued scuffling. The officers tried to get her to give them her ID and lie on the ground but she said that she wasn't going to lie down on the pavement.

§ 87(2)(b) also saw a uniformed sergeant on the scene. He was 5'9" tall, had a medium to big build, had salt and pepper hair, had a moustache and looked to be in his early 50s.

The plainclothes officer who took § 87(2)(b)'s ID came back and told § 87(2)(b) that they had made a mistake and that she had been stopped because her car had been positively IDed as being involved in an armed robbery. § 87(2)(b) said, "Well, what was the plate number?" The detective said, "We don't have a plate." § 87(2)(b) said, "What is the description of the car?" The detective said that it was a light colored car and that they were looking for "two guys." The detective gave § 87(2)(b) her ID back and left after this point.

A second plainclothes officer started talking to § 87(2)(b). He was white, about 5'10" or 5'11" tall, had a solid build, receding brown hair and looked to be about 46 to 48 years old. She asked him if he had a card that she could have and he said that he did not.

The female officer told § 87(2)(b) that her friend should calm down because she might get locked up. § 87(2)(b) said that § 87(2)(b) was just upset because the officers had stopped her, pointed guns at her and slammed her foot in her door, and that they should just leave her alone. The female officer walked

away at this point. The other officers started leaving at this point, too. One male plainclothes officer said, "I'm sorry about your foot," to § 87(2)(b) as he left.

§ 87(2)(b) § 87(2)(b) came as the officers were leaving because she had just gotten off of work. § 87(2)(b) did not think she saw the incident happening. § 87(2)(b) said that she was never issued any tickets, no one was arrested and that her car was never searched. After most of the officers left, § 87(2)(b) saw PO Hom standing on the corner and walked up to him. She read his nameplate and saw that his shield number was #9652.

§ 87(2)(b) did not think the officers who originally pulled her over came out of the car. One of the other officers told her that the person who was robbed was in that car. No officer played § 87(2)(b) a description of the suspects over the radio at any point.

*On October 6, 2006, Investigator Hardingham interviewed § 87(2)(b) in connection with this case at the CCRB. The summary of her section of the complaint is drawn from her initial complaint narratives to the CCRB and IAB, her in person interview at the CCRB and subsequent phone conversations that § 87(2)(b) had with Investigator Maoz on February 26, 2007, and March 30, 2007. It is noted specifically in the summary where portions of her narrative were amended by follow up statements made by § 87(2)(b) § 87(2)(b) was a § 87(2)(b) old Black female, about 5'2" tall, and weighed 145 lbs. § 87(2)(b) (Encl. 11A-E).*

§ 87(2)(g)  
As § 87(2)(b) made a left onto Christopher Street, near the PATH train entrance, § 87(2)(b) was kidding around with § 87(2)(b) saying, "They're after us." § 87(2)(b) thought that § 87(2)(b) was being serious. At 11:03 PM, near Christopher Street and Greenwich Street, they pulled over right in front of the PATH train entrance. § 87(2)(b) was on the phone with her friend § 87(2)(b) from the bar at the time. § 87(2)(b) got out of the car for whatever reason. § 87(2)(b) first told the investigator that she got out of the car on the passenger side just to see what was going on. She didn't know they were coming after her. She did not hear any instructions from the officers telling her to get out of the car. She at first stated that she tried to exit only because she wanted to see what was going on. She then amended her narrative and said they grabbed her arm to pull her out of the vehicle, where she had had surgery. She said, "Ouch." She kept yelling, "This is a cell phone." When § 87(2)(b) put her foot out of the car on the passenger side, there were cops on bicycles and mopeds. She thought there were about seven officers. The officers slammed the door on her ankle. They had guns in her face. One of them was pointing a gun at her right temple. They pushed her up against the car but never handcuffed her. They pulled her hair back. All of the officers were white males, except there was one woman. § 87(2)(b) noted there was a van, a police car, regular bikes, a scooter, and undercover minivan cars. In § 87(2)(b)'s initial complaint narrative, and her complaint to IAB she alleged that her cell phone had been damaged during the incident, however, she did not bring up that allegation during her in person interview.

In a follow up phone conversation on February 26, 2007, § 87(2)(b) added that during the incident, the officers were trying to get her to get on the ground. One officer kept his gun up to her right temple for about five minutes trying to gain compliance. She kept moving her head to the side because she could not see well out of her right eye, and was getting random flashes from a chronic vision problem which would make her move her head. She told the officers that she could not get on the ground because she had bad knees, but stated that she would go up against the car. On March 30, 2007, Investigator Maoz questioned her regarding a frisk at that time, § 87(2)(b) responded that she did not feel any officer pat her on her clothing, and she was never searched. On February 26, 2007, Investigator Maoz attempted to obtain further descriptions of the officers who pulled her out of the vehicle, and pointed guns at her. She could not provide any further descriptions of the officers because they were all on her right side, and she had problems seeing out of her right eye (Encl. 11D).

The officers kept § 87(2)(b) and § 87(2)(b) there for over half an hour. During this time, § 87(2)(b) was standing up, crying, and praying. She was trying not to pay attention to the flashes in her eye because she couldn't see very well out of her right eye. § 87(2)(b) volunteered her ID to the female officer, the

female officer did not ask for it. The female officer read their ID's and realized they weren't who they thought.

After it was over, she sat on the curb and starting rubbing her ankle because it hurt from when the officers slammed the door on it. She was crying. One detective in plain clothes came over at that time and apologized to her. She couldn't remember what that officer looked like. Most of the officers dispersed. She went up to the officers she could find to try to get their cards. She remembered PO Hom's name because she went up to him afterwards. PO Hom didn't have a card, but he told her his name. She stated at one point that he covered up his badge. She knew they had told her they had a positive ID for an armed robbery. They told her it was for two men. They had this woman, she didn't know who the woman was. She could not articulate when exactly that happened or who told her that. After the incident, § 87(2)(b) and § 87(2)(b)'s friend § 87(2)(b) drove up but the street was all blocked off. § 87(2)(b) did not see the car stop, but saw PO Hom writing down one of the women's information. At that time, § 87(2)(b) stated, "What are you gonna do, write me a ticket?" There were a lot of people watching because it was the village on a Friday night.

### **Results of Investigation**

#### ***911 Recording and Radio Communications***

The stop of § 87(2)(b)'s vehicle stemmed from numerous 911 calls regarding an armed robbery. There were five calls made to 911 between 10:22 PM and 10:28 PM on September 8, 2006, reporting a robbery at gunpoint on Barrow Street between Commerce Street and Hudson Street in Manhattan. The victim of the robbery was later identified through investigation as § 87(2)(b). The first call, which came at 11:27 PM, was from § 87(2)(b) § 87(2)(b)'s sister. § 87(2)(b) then handed the phone to § 87(2)(b) and § 87(2)(b)'s mother § 87(2)(b) was identified by the investigator from voice recognition). § 87(2)(b) stated that the perpetrator was a Black man wearing a red and white striped shirt with some yellow in it. The man took § 87(2)(b)'s purse and her wallet, ran into a car, and then went towards the West Side Highway at high speeds. § 87(2)(b) did not know the make or color of the car, but she asked someone in the background, possibly § 87(2)(b) who told her that the car was a brand new black metallic gray Nissan Civic. Numerous police radio communications related the descriptions of the suspects as they were reported to 911.

Another caller, an unidentified female, reported that there were two Black males, and that one was in a button down shirt. They were both in their mid to late twenties. An unidentified male caller reported that there were three Black males in the car. Two of the callers did not provide any additional information to the description. Three callers corroborated that the car was metallic gray or silver (Encl. 31A).

#### ***Civilian Witnesses***

On January 24, 2007, § 87(2)(b) provided a phone statement in connection with this case because she lived in Memphis, and could not come to the CCRB in person in order to provide a sworn statement. § 87(2)(b) was reluctant to provide a statement at first, and requested that Investigator Maoz cease contact attempts to her daughter, § 87(2)(b) because she was still very traumatized from the robbery (Encl. 12A).

After § 87(2)(b) and § 87(2)(b) were held at gun point, the officers wanted to drive the civilians around in the back of a police car. The car was a marked police car with two officers in uniform. Those officers were later identified by the investigation as PO Christine Aigotti and PO Robert Durante of the 6<sup>th</sup> Precinct. At around 11:30 PM or midnight, they drove around in order to comb the area for the suspects, who § 87(2)(b) described as two Black men who were driving a white car. They were driving around for about five minutes before § 87(2)(b) saw the car that she thought belonged to the suspects. It was a white car, § 87(2)(b) did not remember the make, and it was double-parked, on the corner of what she thought was Hudson

Street and Morton Street, almost in the same area as the robbery. When § 87(2)(b) saw the car, she stated, "That's the car. That's the car." The police pulled up behind the vehicle. At that time, two individuals were in the car, and § 87(2)(b) could not see the individuals, but solely identified the car. § 87(2) thought that perhaps a third individual jumped in the car, but she could not remember if she was confusing the chase of the suspects with the robbery incident itself. It seemed to be a similar type of situation because there were two people in the suspects' car and then someone pulled up and then jumped into a car with two other people and sped off. § 87(2)(b) might have been imagining the third person, she could not remember. The officers got out and the suspects' car sped off. § 87(2)(b) thought that it was a sign that they were guilty that they sped off as soon as the officers approached their car. The officers then went on a police chase after them. The officers were calling other police because the officers in the RMP with them said they had found the car, and that the car was identified. § 87(2)(b) and § 87(2) didn't know if that car belonged to the suspects or not, it was just that they sped off that they thought they were guilty. The officers kept asking her daughter, "Are you sure." She said, "I'm sure." § 87(2)(b) never saw the individuals, and only identified the car.

After about four blocks, the vehicle they were following turned left somewhere near a train station or a pathway. There were tons of people on the street. When the individuals stopped their vehicle, § 87(2) and § 87(2)(b) were told to duck down in the back seat by some unidentified individuals who could have been civilians, or plainclothes or undercover officers. § 87(2)(b) remembered that the suspects refused to get out of the car.

When the suspects got out of the car, she remembered her daughter saying, "That's not the people." Her daughter wanted to get out and tell the officers, but people around the scene told them not to get out of the car. They were saying, "Duck, we'll go tell them." A lot of people had guns at the scene, not just the police. She commented that it looked like a gang fight.

She can't remember at what point the officers realized those weren't the suspects. She did think that at one point her daughter had told the officers that the suspects were men, they weren't women, so the officers probably just figured it out. They were looking for two Black men, and the two people looked like Black men.

§ 87(2)(b) noted that she was confused at the time of the incident, and pretty traumatized from being just held up at gun point. Because of this, she wanted Investigator Maoz to know that she could have been remembering the incident, especially some of the details, incorrectly.

§ 87(2)(b)  
Investigator Hardingham contacted § 87(2)(b) another witness of the robbery, on December 11, 2006, however her statement did not provide any substantive information relative to the CCRB investigation (See Investigative Actions, Encl. 30B).

§ 87(2)(b)  
§ 87(2)(b) was § 87(2)(b)'s sister who § 87(2)(b) and her mother were visiting in New York when the robbery occurred. Investigator Maoz spoke with § 87(2)(b) on January 19, 2007, however she did not have any further information to provide that was relevant to the investigation (See Investigative Actions, Encl. 30D).

#### **Attempts to contact other civilian witness**

Three calls were placed to potential phone numbers, obtained from PO Aigotti's memo book, for § 87(2)(b) on January 9, 2007, January 11, 2007, and January 19, 2007. Two please call letters were sent to § 87(2)(b) at her sister's address in Manhattan on January 9, 2007, and January 16, 2007. § 87(2)(b) would not provide further contact information for her daughter, and stated that she really wished to not be contacted by anyone regarding the case because she was still traumatized. § 87(2)(b) did not return the investigators' contact attempts. It was also unlikely that her statement would have affected the allegations in this case (See Investigative Actions, Encl. 30A-F, and 29C-D for letters sent).

### ***Officer Statements***

**PO Christine Aigotti**, shield #3784 of the 6<sup>th</sup> Precinct, prepared a **Handwritten UF-250**, relating to the stop and frisk of § 87(2)(b) § 87(2)(b) was stopped in front of 139 Christopher Street in Manhattan in relation to a robbery at 10:50 PM on September 8, 2006. § 87(2)(b) refused her ID at the time. § 87(2)(b) was frisked due to furtive movements, refusal to comply with officer's directions, and because she was suspected of a violent crime. No weapons or other contraband were found. Under additional circumstances relating to the stop and frisk, PO Aigotti noted that § 87(2)(b) was identified on a canvass by a complainant/victim of a robbery (Encl. 14A-B).

*PO Aigotti was interviewed twice at the CCRB in connection with this case. On November 15, 2006, Investigators Hardingham and Driscoll interviewed PO Christine Aigotti, and on February 21, 2007, Investigator Maoz and ASI Begeny interviewed PO Aigotti in order to clarify her statement.* § 87(2)(g)

*PO Aigotti was a § 87(2)(b) old white female. She had been on the force for a little less than two years at the time of her first interview. Prior to her second interview, PO Aigotti listened to the CCRB recording of her first interview with her representation.*

On, September 8, 2006, PO Aigotti worked from 3:00 PM until 11:35 PM in Sector EFH. She was working with Officer Durante, and dressed in uniform. She was the passenger in marked RMP 1272.

### **Memo Book (Encl. 13A-E)**

2224—1030 (Robbery in progress) Gunpoint robbery at Barrow and Commerce Street. 1084 (Arrived at scene) confirmed 1030.

2230—Lt. Casey on the scene. Relayed description and direction of flight. Grey Honda Civic west on Barrow toward West Street. Male Black, approximately 25 years of age, 6' 150 lbs, white and red striped shirt. Blue jean shorts white sneakers, pointed black revolver at forehead of victim and grabbed pocketbook. Pointed firearm at mother and fled with two other occupants in the vehicle. Victim § 87(2)(b) § 87(2)(b). Witness, the mother, § 87(2)(b) Witness #2: § 87(2)(b) observed incident.

2237—Two females in auto conducting canvas in the vicinity of 6<sup>th</sup> Precinct.

2250—felony carstop in front of 139 Christopher Street. Vehicle and operator positively identified by complainant/ victim from RMP 1272. She stated, "That's the car. That is them. I'm positive. That's them." Grey Ford, NY plate, § 87(2)(b) Stopped abruptly and recklessly pulled to the right. Both abruptly opened the doors and got out of the vehicle and were uncooperative and disorderly immediately. § 87(2)(b) rear pocket frisked for bulge. At which time complainant/victim stated, "I made a mistake" to partner PO Durante. 2 UF-250's (stop and frisk reports) prepared.

2317—Still out, final 1093C (Complaint report prepared), 1093Q (Other report prepared), Job # § 87(2)(b)

2320—Interview complainant and witness on scene.

2350—84 (arrived) back at 6<sup>th</sup> precinct.

2353—Filling out paperwork.

### **Narrative (Encl. 15A-F)**

PO Aigotti responded to a robbery at gunpoint. She was the passenger in the marked RMP that PO Durante was driving. They got to the scene of the robbery. PO Aigotti had a description from the complainant, the complainant's mother, and a witness on the scene. She did not know how long after the incident the officers arrived on the scene, because she did not ask the complainants how long it took them to get there. She recorded the description at the scene of the robbery. In the interview, she read the description from her memo book. The suspect was a male Black, approximately 25 years old, 6' and 150 lbs. He was wearing a white and red striped shirt, blue jean shorts, and white sneakers. On the scene, they were not positive about the description of the car. In her memo book, she had written down that the car was a gray Honda Civic. The witness said there were three individuals in the car, the victim and her mother said there were two. The descriptions came from the complainants in person, but she could not remember if any part of the

description came from radio communications. She could not remember if a description ever came over the radio.

It was procedure to put the complainant in the vehicle and canvass the area to look for possible suspects. When they were travelling north on Hudson Street with the complainants in the back seat, the victim said, "What's that car in front of us?" She looked at the officers, and then said, "That's them, that's them, I'm positive." They were just south of Christopher Street when they first spotted the suspects' vehicle. The car was moving at that time. As she was saying that, the car that the complainant identified made a left onto Christopher Street, and she got a good view of the driver. She stated again, "That's him. I'm positive." The victim, at first, only identified the vehicle itself. The victim identified the individuals in the vehicle as soon as the car made a left onto Christopher Street. The victim identified the driver as the person who stuck a gun to her head at that time, stating, "That's him." They could not see their clothing to tell if they fit the description at that time. They could just see their heads in the car. The driver looked like a Black male because she had short hair. They could not determine the number of occupants in the vehicle at that time. PO Aigotti just saw the driver. She could not remember which side the victim was sitting on in the back seat. She might have been right in the middle, because that's where she heard the voice coming from. They could only see the driver for a matter of seconds. PO Aigotti said to the victim, "Are you sure," but did not ask any follow up questions to determine what factors lead the victim to believe that was the suspect. There was not a lot of time because the suspects started to weave through traffic. At that point, PO Aigotti's concern was to get over a radio transmission.

As they were making a left onto Christopher Street, the officers turned on their lights. PO Aigotti's partner beeped the horn to ignite the sirens. It appeared as if the people the victim had identified were trying to get through traffic and flee. They followed them from Hudson until the middle of the block toward Greenwich on Christopher Street. They had their lights on and were following them for a very short period of time. Then the civilians abruptly pulled over to the right, raising their suspicion further. The officers started to get out of the car, and the doors of the civilian vehicle threw open simultaneously, which made PO Aigotti think they were going to run. PO Aigotti then ran under cover and drew her gun because she feared she would be shot at. She never pointed it at either of the suspects. She took one step out from behind cover. She was about six feet from the vehicle. At that time, there were about five or six foot posts around the vehicle. There was a foot post with § 87(2)(b) PO Aigotti knew he was a male in uniform, but he was new and she did not know him. She couldn't remember any other descriptive characteristics. She turned her head to check where her partner was, realized her gun was not necessary and so put it away, and then she began to walk towards the vehicle. At that point she was about six feet from the vehicle. After they made the stop, and PO Aigotti ran for cover, innocent bystanders were running away because they thought the suspects had a gun. She only saw one officer with his gun drawn when she came out from behind cover. She could not say whether any officer pointed a gun at § 87(2)(b)'s head. She never saw any officers point a gun directly at § 87(2)(b)'s head. She could not say that it didn't happen, but she never saw that happen.

After the stop, PO Aigotti told the other officers to lower their guns because it was no longer necessary. She explained that was because both parties' hands were visible and contained. The suspects were standing next to the car on either side at that time. There were also so many cops in the area. She did not know that they were the wrong people at the time when she instructed other officers to put their guns down. It just wasn't necessary because she felt the situation was safe, but at that time, she still did not know if they were the suspects or not.

After she instructed the officer's to put their guns down, she went up to § 87(2)(b) and saw her from the back. The suspect was facing the door jam, diagonally. She was screaming and yelling. PO Aigotti could not remember what she was screaming, except for, "Oh my god, oh my god." She was waving her arms, and was not compliant. She noticed a bulge in the passenger's back pocket. Upon observation, she thought § 87(2)(b) who she presumed was a man at that time, had a gun. She felt the bulge, and it was a wallet. PO Aigotti realized that the suspect was not male when she turned around after she had frisked her. The undersigned showed PO Aigotti a copy of the computerized UF-250 in order to clarify what was meant by "Furtive movements" as justification for the frisk. PO Aigotti stated that her hands were going up and down, and she was flailing her arms. Her body was going up and down, and it looked



like she was trying to distract her so that she could run away from the scene. § 87(2)(b) never made any movements towards her waist band or towards a bulge. She never made any motions towards the officers. PO Aigotti never felt any other parts of her body besides the bulge. She did not know how many officers were around § 87(2)(b) at the time.

PO Aigotti figured out that they were not the suspects when her partner walked up and said, "It's not them, it's not them." She was not sure where she was at that time, but she was near the suspects' vehicle on the passenger side. PO Durante informed her that they were the wrong people after she frisked the passenger's pocket. PO Aigotti was not sure how he had found out they were the wrong people.

She tried to explain to § 87(2)(b) the reason for the stop. She just wouldn't listen. Sgt. Pacheco, the night sergeant, called PO Aigotti over, and she told him what they were doing and why. She went back and tried to explain the situation to § 87(2)(b) again. She kept screaming and yelling. PO Aigotti's attention was not directed toward where § 87(2)(b) was standing while she was talking to § 87(2)(b). PO Aigotti then went back to her vehicle to get her book to write down § 87(2)(b)'s information. She then encountered § 87(2)(b) who started screaming at her. PO Aigotti tried to explain to § 87(2)(b) as well, but that interaction was very brief because PO Aigotti gave up on her after she started screaming.

The sergeant and lieutenant arrived on the scene after the stop was made. She thought the whole thing lasted about 20-25 minutes. They spent a long time trying to explain the situation to the civilians. The civilians did not eventually cool down. They were still freaking out when PO Aigotti left the scene. PO Aigotti explained in the interview that § 87(2)(b) and § 87(2)(b) looked like men, and that was the problem. They also thought they had a gun. § 87(2)(b) didn't say anything about property damage during the incident.

**PO Robert Durante**, shield #27462 of the 6<sup>th</sup> Precinct, prepared a **Handwritten UF-250** for the stop of § 87(2)(b). The circumstances noted leading to the stop were that § 87(2)(b) fit a description, and that she was identified by a complainant/victim. PO Durante noted that he explained the reasons for the stop, and that § 87(2)(b) was not frisked or searched, and no contraband was found. Under additional circumstances, PO Durante noted that there was a report from a victim, that the suspects were in close proximity to a crime location, and that § 87(2)(b) was identified on a canvass by a complainant/victim for a robbery (Encl. 17A-B).

*On November 15, 2006, Investigators Hardingham and Driscoll interviewed PO Durante in connection with case at the CCRB. PO Durante was a white male, 5'9", 190 lbs, with brown hair and brown eyes. At the time of the incident, he had been on the force for about nine years.*

On September 8, 2006, PO Durante worked from 3:00 PM until 11:35 PM, in sectors EFH, and was in marked RMP 1272 with PO Aigotti, in uniform.

#### **Memo Book** (Encl. 16A-G)

PO Durante's relevant memo book entries were the same as his partner's, PO Aigotti, § 87(2)(g)

#### **Narrative** (Encl. 18A-C)

PO Durante and PO Aigotti got a radio run for a robbery and responded to the corner of Barrow Street and Commerce Street. When they arrived, witnesses told them that a robbery had taken place and that the suspects had fled in a gray vehicle. The officers got the contact information for the victim and witnesses on the scene. Lt. Casey arrived on the scene and instructed PO Durante and PO Aigotti to conduct a canvass with the victim. § 87(2)(b) and either her mother or another witness got into PO Durante's RMP. While riding down Hudson Street, PO Durante saw a gray Ford Taurus sedan (later found to be driven by § 87(2)(b) in front of the RMP make a left turn onto Christopher Street. § 87(2)(b) the

victim, said, “That’s them! That’s them! I’m positive that’s them!” This happened about three or four blocks from the scene of the robbery.

At this point, one of the officers turned on the RMP’s turret lights and PO Aigotti put a call over the radio that they were conducting a car stop in relation to the robbery. After the officers turned on the turret lights, § 87(2)(b) abruptly pulled the car over to the right and both § 87(2)(b) and her passenger, § 87(2)(b) abruptly exited the vehicle. § 87(2)(b) immediately started screaming obscenities. A lot of foot posts converged on § 87(2)(b)’s vehicle at once because officers were posted along Christopher Street and were in the immediate area. § 87(2)(b) cursed at the officers and said things like, “What’s going on? I’m very upset.” PO Durante said that he was unsure whether another officer on the scene had ordered § 87(2)(b) and § 87(2)(b) to get out of their car. He emphasized that the situation was very confusing because there were a lot of foot posts converging on the scene and the street was packed with civilians because it was a weekend night and lots of people were going in and out of a nearby PATH station. PO Durante exited the left side of his RMP and stood in the street facing the Ford. PO Aigotti exited on the passenger side and moved forward on the sidewalk while making use of available cover. Within seconds, other officers who arrived on foot converged on the vehicle from multiple sides. PO Durante did not have his gun drawn but he saw that his partner had her gun in her hand. He was not sure whether or not other officers had drawn their weapons as well.

PO Durante could not remember the exact chronology, but he knew that the people in the back of his RMP said that they had made a mistake very soon after § 87(2)(b) and § 87(2)(b) exited their vehicle. At about that point PO Durante approached § 87(2)(b). Officers who had arrived on foot were already very close to her. PO Durante told § 87(2)(b) that a gunpoint robbery had just taken place and that the officers had stopped her in relation to that. § 87(2)(b) said, “Okay, then I’ll deal with you.” He told her that the robbery victims had identified her car as the car belonging to the perpetrators. He then said, “Ma’am, may I please have your license so I can show that we stopped you?” § 87(2)(b) provided her license and PO Durante recorded the license information on the fly sheet of his memobook. PO Durante was not sure which officer frisked § 87(2)(b). He knew that the officers who approached her were on foot but he wasn’t sure who they were because they were new to the command and he had not learned their names yet. § 87(2)(b) did not complain about a broken mobile phone or other damaged property to either PO Durante or PO Aigotti. Neither did § 87(2)(b). Sgt. Pacheco and Lt. Casey arrived on the scene during the stop. The stop lasted for about ten minutes. After § 87(2)(b) and § 87(2)(b) provided their pedigree information, officers started to leave the scene.

*Investigator Hardingham interviewed PO Jonathon Hom, Shield #9652 of the 6<sup>th</sup> Precinct, on November 16, 2006 in connection with this case at the CCRB. PO Hom had been on patrol three months at the time of incident.*

On September 8, 2006, PO Hom worked the night tour, from 9:00 PM on September 8 to 5:35 AM on September 9, 2006. PO Hom worked training foot post 2, which is Christopher Street between Greenwich and Washington. Foot post 1 is about a block south. He was working alone and dressed in uniform.

**Memo Book (Encl. 19A-D)**

23:15- Complainant took my badge number and name on Greenwich and Christopher after the car was stopped for 1020, armed robbery. Two female Blacks in a Ford Taurus, four door sedan, § 87(2)(b). Initial stop occurred on Christopher between Hudson and Greenwich.

**Narrative (Encl. 20A-B)**

PO Hom was walking eastbound on Christopher Street responding to a 1020 (armed robbery). As he was walking on Christopher between Hudson and Greenwich, trying to close in on the area around where the robbery took place, he noticed an RMP pull up behind a Ford Taurus. The officer from foot post 1 also responded and approached the car with him, but he does not remember who that was, or whether the officer was male or female. The two officers in the RMP got out and yelled, “That’s the car” in relation to the robbery. An officer in the RMP told them to draw their guns. He approached the driver’s side door. When

he got to the driver's side, he pulled his gun out and aimed it at the driver. He opened the driver's door, and told the driver to get out. The driver was yelling at PO Hom and refused to get out of the vehicle. He holstered his gun, which was out of his holster for a few seconds. He then went to grab her right arm, so that she couldn't take a swing at him, or grab for anything. She then grabbed him, and he put her in an arm bar. He then pulled her out of the vehicle. It was a matter of seconds to get her out of the car. He then patted her down on the outside of her clothing. He didn't find any objects that could have been weapons. At that time, the complainant in the RMP realized that the driver and passenger were not related to the robbery. Other officers came to the location along with supervisors and clarified everything. After the other officers left the scene, PO Hom returned to his foot post. Both of the women who were stopped approached PO Hom when he went back to his original post, which was right next to the location where the RMP had pulled over the vehicle. PO Hom told one of the women that her vehicle fit the description, and the two people fit the description, it was two female Blacks. The passenger said to PO Hom that he had slammed the foot on her door, but he had had no contact with her. He was never on the passenger side of the car.

He did not see what was happening on the passenger side. He knew there were officers at the passenger side, but he did not remember who was there. He knew the passenger exited the vehicle, but he did not see what happened because he had his attention on the driver. He never had physical contact with the passenger. He never heard her make an allegation about damage to her cell phone. He never directly encountered the victim of the robbery. The entire encounter lasted about ten to fifteen minutes. He remembered two supervisors on the scene, Sergeant Pacheco was one, but he couldn't remember the other supervisor.

*On March 29, 2007, Investigator Maoz and SI Bufter interviewed Lt. Michael Casey of the 6<sup>th</sup> Precinct at the CCRB in connection with this case. Lt. Casey was a white male member of service with brown hair and blue eyes. He had been on the force for 16 years at the time of his interview.*

On September 8, 2006, Lt. Casey had a scheduled tour from 2:00 PM until 11:35 PM, but usually on weekend nights, he would extend his tour until about 4:00 AM. He was the Special Operations Lieutenant, meaning he was in charge of all the plainclothes and specialty units in the precinct. He did not remember having a driver that night. He was in casual plainclothes, but did not know exactly what he was wearing. He could not remember if he was assigned to a motor vehicle that night.

#### **Memo Book**

Lt. Casey did not keep a memo book and so did not have any relevant memo book entries. He only kept a log of his hours.

#### **Narrative (Encl. 21A-C)**

There had been a robbery that occurred and the victims had called 911. When the first officers arrived at the scene of the robbery and were putting a description over the radio, Lt. Casey responded to the robbery scene. When he got there, the victim and her mother were already in a car doing a canvass of the area, and there were other officers on the scene. He didn't know who those officers were, but he did not remember PO Aigotti and PO Durante being there at that time. Lt. Casey thought they were probably his plainclothes officers. They informed him that a young female had been robbed with her mom while they were entering an apartment. The female had been robbed by somebody who then fled in a vehicle. The crime victims did not get a very good look at the vehicle because there were other cars in the way, although they were sure that the perpetrator fled in a vehicle. He did not remember the description, or the race or gender of the perpetrator, but he knew there was only a description of one person because only one of them got out of the car. There was at least one other person driving, and the victims were not sure if there were more than two people in the car.

A short while afterward, he heard a radio transmission of a car stop of two suspects who were possibly involved in the robbery. Lt. Casey did not know who initially stopped the car. The transmission was made by PO Aigotti and PO Durante, and the crime victims were in a different car. Lt. Casey instructed the officers to bring the victims by for a show up. Then Lt. Casey responded to the scene of the car stop. There was a crowd gathered around because Christopher Street was a heavy pedestrian street at that time of

night. By the time he got there, the officers had the two individuals out of the car. They were standing the sidewalk, near the passenger side of the car. Lt. Casey did not see them exit the vehicle. None of the officers had their guns drawn when he arrived. It turned out to be two females in the car at the time. Lt. Casey could only name three officers at the scene besides himself, being PO Hom, a training officer who was assigned to that foot post on that day, and PO Durante and PO Aigotti. He did not know how many officers were there, and whether there were other supervisors. He thought there were about five officers there, and commented that Port Authority Police worked right near there as well. Because it was a one way street, he did not think they would be doing crowd control. Traffic was backed up a little bit.

When he first arrived, it was still uncertain whether the individuals were the perpetrators. It became cleared up shortly afterward when the show up was conducted. The crime victims were driven by in the back of a police car, he was not sure who was driving, and whether the car was unmarked or not. The victims informed Lt. Casey directly that the individuals were not the suspects. At that time, they continued on a canvass. The individuals were never handcuffed. Lt. Casey did not know if any officers asked § 87(2)(b) to get on the ground, but she was standing up when he arrived on Christopher Street.

After it became clear that they were the wrong people, the complainants got very irate with the officers, and wanted to know why they were stopped. They were screaming, and making a spectacle of the fact that they were stopped. Lt. Casey could not say exactly what they were saying. They did not touch the officers at any time. Lt. Casey did not hear either of them complain about injuries at that time, or complain of damage to a cell phone. Lt. Casey thought that the officers who were talking to them, PO Durante and PO Aigotti, were trying to get the two individuals' information to fill out UF-250s. They were unwilling to hear any explanation. Lt. Casey then intervened, and identified himself as a supervisor from the New York City Police Department and tried to explain to them what had happened. Lt. Casey mainly interacted with the individual who was shorter than the other one. They asked for his shield number, and he explained to them that he didn't have a shield. They also wanted to know where he worked. He explained to them that there was a robbery, and knowing what they knew then, that they were actually not involved. He asked one of the two complainants for her name, and Lt. Casey directed that they be 250-ed. They wouldn't give them their names. His involvement in the incident lasted less than ten minutes.

When asked if it was clear to Lt. Casey whether the two individuals were obviously female, he stated that it was obvious to him because he had been working in the village for four and a half years, and knew that there were a lot of people in the neighborhood with different lifestyles who dressed similarly. He could understand how other individuals could have mistaken the gender of the individuals. He did not remember PO Aigotti or PO Durante stating that they had mistaken the gender of the individuals, and initially thought that they were male. Lt. Casey could not remember exactly what the two individuals were wearing, or if their chests were visible at the time.

Neither PO Hom, nor PO Aigotti, nor PO Durante informed Lt. Casey of the nature of the stop. They did not say whether officers approached with their guns drawn. The original crime was an armed robbery, and he could not comment on whether most officers would have approached the car with their guns drawn at that point because officers handle situations like that differently depending on the level of threat that they feel. PO Aigotti did not relay to Lt. Casey that she felt physically threatened by the shorter individual who was stopped or feared that she had a weapon. Lt. Casey did not observe any officer conduct a frisk of the individuals, and the officers did not state if they had already conducted a frisk of the individuals.

The car was similar in body type and color, which he thought were the two indicators they used to stop the car. He did not know if they saw the occupants of the car before they stopped it. He knew there was no license plate number because the victims could not see it. Lt. Casey knew they also did not have a positive description of the car itself because the victims had just been robbed, and did not see the car very clearly. It was not relayed to Lt. Casey that the victims themselves had identified the car.

The crime victims were then brought back to the stationhouse to view photos and to be interviewed by detectives. Lt. Casey was not involved in that process. He also did not follow up on whether or not the suspects were caught in this case.

*On March 9, 2007, Investigator Maoz and SI Bufter interviewed **Sgt. Ricardo Pacheco**, shield #4967, of the 6<sup>th</sup> Precinct, in connection with this case. Sgt. Pacheco was a Hispanic male, 5'11" tall, with black hair and brown eyes, and weighed 175 lbs. He had been on the force for 13 years at the time of the incident.*

On September 8, 2006, Sgt. Pacheco worked from 9:00 PM until 6:00 AM the next day. At the time of the incident, he was in the precinct, and not assigned to a motor vehicle.

**Memo Book** (Encl. 22A-B)

Sgt. Pacheco had no entries in his memo book concerning this incident.

**Narrative** (Encl. 22C-D)

Sgt. Pacheco heard a call over the radio that there was a robbery with a gun. He then heard a call over the radio that there was a person stopped, and he assumed that was the person that did it. He could not remember if he heard the description. He then ran to the scene, a block away from the precinct.

He went there on foot, and could not remember if he went alone or not. Everyone was leaving when he arrived. There was a civilian car and police cars everywhere and officers standing around. He did not interact specifically with any civilians. He was mostly doing crowd control.

The only thing any of the officers said was that they weren't the perpetrators. He didn't know which sector was involved. He did not know who was in charge. He did not remember if he spoke to any of the officers who made the stop about the incident.

When he heard no further over the radio, put over by the sector, he left. He couldn't remember any officers besides PO Hom because PO Hom was Sgt. Pacheco's training officer and that was his post. He did not see any officers with their guns drawn when they arrived. He could not remember if Lt. Casey was there or not. He spoke to PO Hom afterwards, but only about filling out 250s because he was training him, and the other foot posts. He didn't think PO Hom even knew what was going on.

*On March 22, 2007, Investigators Maoz and Cleaver interviewed **PO Daniel Clark**, shield #6118 of the 6<sup>th</sup> Precinct in connection with this case. PO Clark is a white male, 5'11" and about 140 lbs, with light brown hair and hazel eyes. He had been on the force less than a year at the time of the incident.*

On September 8, 2006, PO Clark worked from 9:00 PM until 5:35 AM the next day. He was dressed in uniform and assigned to training foot post 1, which covered the area from the West Side Highway to Washington Street. He did not know where the nearest foot post was. PBA Albert thought it relevant to note that, at the time of the incident, PO Clark had just graduated from the academy in June of 2006.

**Memo Book** (Encl. 23A-D)

PO Clark did not have any entries in his memo book concerning this incident.

**Narrative** (Encl. 24A-B)

PO Clark was standing on the corner of Christopher and Hudson Street when he saw a large amount of police vehicles in the vicinity of the path station on Christopher Street. Nobody could get through because of all the police vehicles. PO Clark decided to go over to check out what was going on. PO Clark did not hear a radio run concerning the incident, nor did he hear any descriptions of the suspects over the radio. When PO Clark arrived, he saw a lot of officers standing around, and a car that had been stopped. He decided, of his own volition, to direct traffic on the westside of Hudson Street at the intersection with Christopher Street. PO Clark did not have any other relevant information to add about the incident.

**Police Documents**

**Roll Call** (Encl. 27A-C)

On September 8, 2006, PO Aigotti and PO Durante were scheduled to work Tour 3 and assigned to RMP # 1272. Lt. Casey was scheduled to work Tour 3 from 1:00 PM until 9:45 PM, and was assigned to an unmarked car #§ [REDACTED] PO Hom was scheduled to work Tour 1 on September 9, 2006, 9:00 PM until 5:35

AM, and was assigned to Training Post #2. PO Clark was assigned to Training Post #1 on the same tour as PO Hom.

**SPRINTS** (Index Encl. 26A)

Job #§ 87(2)(b) (26D) and Duplicate #§ 87(2)(b) (26B-C) were generated from the above mentioned 911 calls and documented the descriptions relayed over that reflected the 911 calls. Sector car E responded to the scene of the robbery and canvassed with the victims at 10:36 PM. At 10:42 PM, the Special Operations unit responded to the scene of the robbery as well. Descriptions of the suspects came over the radio At 11:02 PM, SPRINT #§ 87(2)(b) (Encl. 26F) was generated to document that Sector E filed stop and frisk reports.

***Officer Identification and Allegations Not Pleaded***

PO Durante and PO Aigotti identified themselves as the officers who stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g)

PO Hom identified himself as the officer who frisked § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

***Complainant's CCRB and conviction histories***

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] § 87(2)(b) filed another complaint with the CCRB § 87(2)(b)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) filed another complaint with the CCRB § 87(2)(b)

***Subject Officers' Substantiated CCRB Histories***

None of the subject officers have any previous CCRB complaints substantiated against them (Encl. 6A-C).

**Conclusions and Recommendations**

***Undisputed Facts***

It is undisputed that at around 11:00 PM on September 8, 2006, PO Durante and PO Aigotti pulled over a vehicle in which § 87(2)(b) and § 87(2)(b) were occupants on Christopher Street between Greenwich Street and Hudson Street in Manhattan because § 87(2)(b)'s car was positively identified as related to the robbery by § 87(2)(b) the victim of the armed robbery. It is undisputed that officers had their guns drawn at the time of the stop.

***Disputed Facts***

§ 87(2)(g)

§ 87(2)(g)

### *Assessment of Evidence*

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) All of the statements corroborated the fact that the victim, § 87(2)(b) while canvassing in the back of PO Durante and PO Aigotti's marked sector car, identified the car in relation to the robbery. § 87(2)(g) § 87(2)(b) stated that § 87(2)(b) never saw the suspects themselves and only identified the car. PO Aigotti insisted in both of her statements that § 87(2)(b) first identified the car, and then identified the passenger's as they were turning the corner. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) did not allege that she was frisked, and the handwritten UF-250 filed by PO Durante corroborated that she was not frisked. However, PO Hom stated that he in fact did frisk § 87(2)(b) thinking that they were looking for two Black female suspects. § 87(2)(g)

§ 87(2)(b) alleged that she was not frisked at the time of the stop. § 87(2)(g)

§ 87(2)(b) the frisk was documented by PO Aigotti, who admitted to frisking § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g) PO Aigotti herself canvassed with the victims, and stated that she had obtained a description directly from the crime victims and another witness.

§ 87(2)(g)

PO Aigotti stated, however, that she realized that § 87(2)(b) was female as soon as she saw her from the front. § 87(2)(g)

§ 87(2)(g) In her version of the events, she approached § 87(2)(b) from the back and never saw her from the front before frisking her. PO Aigotti also described that when she approached § 87(2)(b) she was standing diagonally facing the car, and she never saw her from the front. At the same time, she stated that she saw § 87(2)(b) step out of the vehicle forcefully. § 87(2)(g)

§ 87(2)(g)

PO Aigotti frisked § 87(2)(b) due to furtive movements, refusal to comply with officer's directions, and because she was suspected of a violent crime. Under additional circumstances relating to the stop and frisk, PO Aigotti noted that § 87(2)(b) was identified on a canvass by a complainant/victim of a robbery. § 87(2)(g)

PO Aigotti did not mention in either of her interviews that § 87(2)(b)'s failure to comply with the officers' orders in any way led to the frisk. As for the furtive movements, PO Aigotti stated in her narrative that she thought § 87(2)(b) who she presumed was a man at that time, had a gun. PO Aigotti further explained that what she meant by "furtive movements" was that § 87(2)(b)'s hands were going up and down, and she was flailing her arms. Additionally, her body was going up and down, and it looked like she was trying to distract her so that she could run away from the scene. § 87(2)(b) however, never made any movements towards her waistband or towards a bulge, nor did § 87(2)(b) make any motions towards the officers. ■

§ 87(2)(g)

***Allegation A: PO Christine Aigotti stopped a vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.***

***Allegation B: PO Robert Durante stopped a vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.***

§ 87(2)(g)

According to Barry Kamins *New York Search and Seizure*, "when a [car] stop is based on information supplied by an informant, the prosecution must make at least *some* showing of both the informant's reliability and his basis of knowledge" (See Encl. 1A). § 87(2)(g)



***Allegation C: Officers pointed their guns at § 87(2)(b) and § 87(2)(b)***

§ 87(2)(g)

According to the Office and Administrative Trials and Hearings Case No. 955/00, PD. V. Steven Gliner, an officer is permitted to keep his gun pointed at an individual as long as he feared for his safety, and s/he does not do so in order to intentionally intimidate a civilian (See Encl. 2C-D). § 87(2)(g)

***Allegation D: PO Jonathon Hom frisked § 87(2)(b)***

§ 87(2)(g)

***Allegation E: PO Christine Aigotti frisked § 87(2)(b)***

§ 87(2)(g)

According to the Office of Administrative Trials and Hearings decision in *NYPD V. McEvoy*, “A police officer may frisk a person only if he or she reasonably suspects there is ‘danger of physical injury’ to the officer or others” (See Encl. 3A-C). § 87(2)(g)

§ 87(2)(g)

According to Kamins’, “Aside from the area of the waistband, bulges normally will be observed in pants pockets, jacket pockets, coat pockets, in the groin area, and above the ankle. If the bulge is in these areas, a frisk is not permitted unless a gun is identifiable by its outline” (See Encl. 4A-B). § 87(2)(g)

§ 87(2)(g)

The ruling of the Office of Administrative Trials and Hearings in *NYPD v Dowd and Rose* established the standard for finding misconduct in search and seizure cases as follows: “An improper search or seizure is punishable misconduct if the officer acted with knowledge that he was acting improperly, acted without concern for the propriety of his actions, or acted without due and reasonable care that his actions be proper” (Encl. 5B). § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: